

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL J. GRESS and **BRANDY L. GRESS**, on behalf of themselves and all others similarly situated,

Plaintiffs,

V.

**FREEDOM MORTGAGE
CORPORATION,**

Defendant.

Case No. 1:19-cv-00375-JEJ
(Hon. John E. Jones III)

JOINT MOTION TO EXTEND SCHEDULE

Plaintiffs Michael J. Gress and Brandy L. Gress (“Plaintiffs”) and defendant Freedom Mortgage Corporation (“Defendant”) jointly request an extension of the current case schedule and state as follows:

1. While the parties have been working diligently, they believe that they will be unable to complete discovery by the present deadline of March 31, 2020 [Dkt. 52]. The parties further do not believe that they will be able to submit expert reports and file dispositive motions and responses thereto under the Court's current schedule [Dkts. 52 and 55]

2. On June 26, 2019, the Court issued an Order regarding Defendant's motion to dismiss [Dkt. 33]. The Court denied the motion with respect to

Plaintiffs' claims for: breach of contract brought on behalf of a multi-state class; violation of various state consumer protection statutes brought on behalf of a multi-state class; violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL") brought on behalf of a Pennsylvania class; and unjust enrichment brought on behalf of a Pennsylvania class. The Court granted Defendant's motion with respect to Plaintiffs' claim under the Pennsylvania Fair Credit Extension Uniformity Act ("FCEUA") brought on behalf of a Pennsylvania class, but permitted Plaintiffs to allege violations of the FCEUA as predicate acts for their UTPCPL claim.

3. The parties submitted a joint motion of time to extend the discovery schedule on October 16, 2019 [Dkt. 51]. By Order dated October 17, 2019 [Dkt. 52], the Court set a schedule for the above-captioned action. That Order was supplemented by a second Order dated January 23, 2020 [Dkt. 55], setting briefing schedules for dispositive motions and Plaintiffs' motion for class certification.

4. Those Orders, *inter alia*, provide the following deadlines:

- Plaintiffs' expert reports are due February 14, 2020 (a report was properly served on Defendant by that deadline);
- Supplemental expert reports from Plaintiffs are due March 13, 2020;
- Discovery shall be completed by March 31, 2020;

- Defendants' expert reports are due April 15, 2020;
- Supplemental expert reports from Defendant are due April 29, 2020;
- Dispositive motions shall be filed by May 8, 2020, including motion for class certification;
- A pre-trial conference is scheduled for August 3, 2020;
- The case is placed on the September 2020 trial list; and
- Juries will be drawn in on September 2, 2020 at 9:30 a.m.

5. Discovery has advanced since the Court's October 17, 2019 Order [Dkt. 52], and Plaintiffs were able to serve their expert report on Defendant by the previously adopted due date of February 14, 2020. However, this litigation involves complex matters including but not limited to: Defendant's mortgage practices, policies, and procedures; a detailed understanding and review of Defendant's computer operating systems; and substantial expert analysis such that the parties do not believe that discovery (including discovery necessary for Plaintiffs' anticipated motion for class certification) can be completed by March 31, 2020. In addition to paper discovery and depositions, this case requires a significant production of ESI.

6. Further, by Order dated September 3, 2019 [Dkt. 41], this Court granted Defendant's motion for leave to file an interlocutory appeal with respect to

the issue of whether Plaintiffs have standing to bring non-Pennsylvania claims on behalf of non-Pennsylvania putative class members. Defendant's petition for an interlocutory appeal was only recently denied by the Third Circuit, on February 12, 2020.

7. For all these reasons, the parties now seek an extension of the schedule. The parties propose that the Court's October 17, 2019 Order [Dkt. 52] and January 23, 2020 Order [Dkt. 55] be amended as follows, which will extend most deadline dates by approximately two months:

- Supplemental expert reports from Plaintiffs are due May 15, 2020;
- Discovery shall be completed by May 29, 2020, other than depositions of expert witnesses;
- Depositions of Plaintiffs' expert witnesses shall be completed by June 12, 2020;
- Defendants' expert reports are due June 19, 2020;
- Supplemental expert reports from Defendant are due June 29, 2020;
- Dispositive motions shall be filed by July 10, 2020, including motions for class certification;
- All opposition papers to dispositive motions shall be filed by August 7, 2020;

- All reply papers to dispositive motions shall be filed by August 21, 2020;
- A pre-trial conference shall be scheduled for October 2020, at a date and time to be determined by the Court;
- The case is placed on the November 2020 trial list; and
- Juries will be drawn in November 2020, at a date and time to be determined by the Court.

8. A proposed order is being filed with this application.

WHEREFORE, the parties respectfully request that the Court grant this motion and extend the schedule.

Dated: February 19, 2020

Respectfully submitted,

By: /s/ Bradley F. Silverman

D. Greg Blankinship (admitted *pro hac vice*)
Todd S. Garber (admitted *pro hac vice*)
Bradley F. Silverman (admitted *pro hac vice*)

**FINKELSTEIN, BLANKINSHIP,
FREI-PEARSON & GARBER, LLP**

445 Hamilton Ave, Suite 605
White Plains, New York 10601

Telephone: (914) 298-3281

Fax: (914) 908-6709

gblankinship@fbfglaw.com

tgarber@fbfglaw.com

bsilverman@fbfglaw.com

Gary F. Lynch
Edwin J. Kilpela
**CARLSON LYNCH KILPELA &
CARPENTER, LLP**
1133 Penn Avenue, 5th Floor
Pittsburgh, PA 15222
Telephone: (412) 322-9243
Fax: (412) 231-0246
glynch@carlsonlynch.com
ekilpela@carlsonlynch.com

Matt Schultz (*pro hac vice* forthcoming)
Bill Cash (*pro hac vice* forthcoming)
**LEVIN, PAPANTONIO, THOMAS,
MITCHELL, RAFFERTY & PROCTOR, P.A.**
316 South Baylen St.
Pensacola, FL 32502
(850) 435-7140
mschultz@levinlaw.com
bcash@levinlaw.com

Counsel for Plaintiffs

/s/ Timothy P. Ofak
Timothy P. Ofak (Bar No. PA 203087)
Jason W. McElroy (*pro hac vice*)
Brian M. Serafin (*pro hac vice*)
WEINER BRODSKY KIDER PC
1300 19th Street NW, Fifth Floor
Washington, DC 20036
Tel: (202) 628-2000
Fax: (202) 628-2011
Email: ofak@thewbkfirm.com
mcelroy@thewbkfirm.com
serafin@thewbkfirm.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2020, a copy of the foregoing **JOINT MOTION TO EXTEND SCHEDULE** with a **PROPOSED ORDER** was filed via the Court's CM/ECF system.

By: /s/ *Bradley F. Silverman*
Bradley F. Silverman